

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
EASTERN DIVISION

No. 4:09-CR-61-F-3

UNITED STATES OF AMERICA

v.

MARGARITO MEJIA-HERNANDEZ

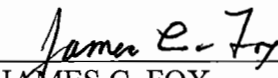
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ORDER

This matter is before the court on Defendant Margarito Mejia-Hernandez's letter motion [DE-136], which the court construes as a motion for reconsideration "The court may not modify a term of imprisonment once it has been imposed," except in three specific instances. *See* 18 U.S.C. § 3582(c). Those instances are (1) upon a motion of the Director of the Bureau of Prisons, (2) pursuant to a Rule 35 motion brought by the government, and (3) pursuant to a sentencing range lowered by the Sentencing Commission pursuant to 28 U.S.C. 994(o). The defendant does not raise any of these conditions, but instead challenges the validity of his sentence based on possession of a firearm in furtherance of a drug trafficking crime. The more proper motion for such a challenge would be one pursuant to 28 U.S.C. § 2255. The court reminds the defendant that the court previously dismissed his 2255 motion for failure to prosecute after the defendant failed to complete and return the proper 2255 form. *See* Order of August 26, 2013 [DE-96]; Order of March 5, 2014 [DE-117]. The motion for reconsideration is DENIED.

SO ORDERED.

This, the 21st day of October, 2015.



JAMES C. FOX
Senior United States District Judge